

**UNITED STATES GOVERNMENT
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 10**

AMAZON.COM SERVICES LLC

Employer

and

Case 10-RC-269250

**RETAIL, WHOLESALE AND DEPARTMENT
STORE UNION**

Petitioner

**SUPPLEMENTAL REPORT ON OBJECTIONS,
ORDER DIRECTING HEARING
AND
NOTICE OF HEARING ON OBJECTIONS**

Based on a petition filed on November 20, 2020, and pursuant to a Decision and Direction of Election, a mail ballot election commenced on February 8, 2021, to determine whether a unit of employees of Amazon.com Services LLC (the Employer) wish to be represented for purposes of collective bargaining by Retail, Wholesale and Department Store Union (the Petitioner or the Union).

The tally of ballots prepared at the conclusion of the election ballot count and issued on the parties on April 9, 2021, shows that of the approximately 5,867 eligible voters, 738 votes were cast for and 1,798 votes were cast against the Union, with 505 challenged ballots, a number that is not sufficient to affect the results of the election.

On April 16, 2021, the Petitioner filed timely objections to conduct affecting the results of the election and properly served a copy on the Employer. The Petitioner alleges that the incidents outlined in its objections occurred during the critical period and throughout the period of the election. On April 19, 2021, by letter served on the parties, the Region advised the parties of the filing of the objections. On April 26, 2021, an Order Directing Hearing and Notice of Hearing on Objections issued on both parties along with a copy of the objections.

The National Labor Relations Board, Casehandling Manual, Part Two, Representation Proceedings, Section 11391.1, states:

Consideration of Objections Under Section 102.69(c) of the Rules and Regulations, a Regional Director is authorized to process objections either administratively or by hearing. Ordinarily, Regional Directors should not conduct investigations where affidavits are taken before deciding whether to set objections for hearing. Instead, the Regional Director should simply evaluate each objection and the accompanying offer of proof to determine whether the evidence described in the offer of proof “could be

grounds for setting aside the election if introduced at a hearing” If the applicable standard is met, the objection should be set for hearing.

Section 11392.5 Reasons for Objections, states:

The objections must contain a short statement of the reasons therefor. Sec. 102.69(a), Rules and Regulations. The statement should be specific, not conclusionary, and constitutes an essential part of the objections. Objections which are nonspecific, for example, which allege “by these and other acts, etc.,” or which attempt to incorporate by reference other documents, e.g. federal court filings, are insufficient, should not be treated and should be dismissed on their face. With the objections, the objecting party must also file with the Regional Director an offer of proof, which identifies its witnesses and summarizes their testimony.

In some cases, it may also become necessary to consider third-party misconduct as elections may be set aside based on third-party conduct.

On April 28, 2021 the Employer filed a Motion for Meaningful Notice of Objections. In its motion the Employer asserts, in part, that: “While the Order identified which Objections will be heard, it failed to provide meaningful notice of the conduct alleged in Objections 7, 8, 9, 10, 11, 12, 13, 17, 18, 19 and 20.” The Employer further claims that: “The Regional Director will deny Amazon procedural due process if the Region fails to provide the fundamental requirements of “meaningful notice . . . and . . . full and fair opportunity to litigate.” *Factor Sales, Inc.*, 347 NLRB 747, 747 (2006) (alterations in original).” The Employer also cites *Champion Int’l Corp.*, 339 NLRB 672, 673 (2003) in support of this claim.

Without commenting on the Employer’s assertions, I provide the following.

As indicated in the Order Directing Hearing and Notice of Hearing on Objections of April 26, 2021, Objections 1 through 7 and 17 are interrelated; all set forth allegations arising from the installation of a collection box or mailbox on the Employer’s property during the critical period. In its Motion, the Employer complains that the Order failed to specify how a USPS mailbox is objectionable in a mail-ballot election. In support of its position regarding these interrelated objections, the Petitioner Union cites *North American Plastics Corp.*, 326 NLRB 835 (1998), asserting that it is highly prejudicial for the Board to allow a process that creates the impression that the Employer, not the Board, controls the mechanics of the election, and argues that the installation of the mailbox was objectionable because it created such an impression.

As outlined in the April 26, 2021, Order, in Objection 8 the Petitioner alleges that, during group meetings in January and February 2021, and during other conversations that occurred during the critical period, the Employer, by and through its agents, unlawfully threatened employees with the loss of business at the warehouse/fulfillment center if employees voted for the Union. The Petitioner alleges that on about March 24, 2021, the Employer emailed employees with the message that because of the Union, the Employer would have to lay off 75 percent of the petitioned-for unit. The Petitioner alleges the Employer’s agents also threatened

employees that the Employer would close the warehouse if the Union were voted in. The Petitioner asserts that employee witnesses will testify that consultants and/or supervisors, as agents of the Employer, told employees during group meetings held in January and February 2021 that if the Union is voted in, the warehouse would close or that work would be moved elsewhere and threatened employees with loss of business at the plant or plant closure by stating that if the employees voted the Union in, Jeff Bezos would not lose any money by taking the Amazon name off the building and shutting the facility down. The Petitioner asserts that on at least two occasions in meetings held with employees in or about mid-January 2021, managers stated that Amazon would shut down the facility if the Union was voted in and that Amazon had stopped or slowed construction in the Birmingham and Mobile areas because of the Union campaign. The Petitioner asserts that on March 24, 2021 an email was sent from “Amazon Ops HR” stating in part: “As a result of the Union and Covid-19, Amazon is experiencing financial difficulties and lack of work and must restructure its operations. This includes a 75 percent reduction of our teams across the facility as well as not filling open positions in most departments.” The Petitioner contends this conduct interfered with employees’ rights to a free and fair election.

As outlined in the same Order, in Objection 9 the Petitioner alleges that since January 2021, agents of the Employer solicited grievances from employees and offered to resolve these grievances. The Petitioner alleges the Employer’s agents questioned employees as to what they would like to see improved at the facility and how the Employer could address their concerns. The Petitioner also alleges that in about January or February 2021, the Employer set up the “Black Employee Network” as a way of soliciting grievances from Black employees. The Petitioner contends that prior to the organizing campaign, the Employer’s agents did not seek input from employees or solicit grievances. The Petitioner alleges that during the critical period agents of the Employer solicited grievances from employees and attempted to resolve some of the grievances. For instance, the Petitioner asserts that towards the end of January 2021, a member of upper management named (b) (6), (b) (7)(C) (last name unknown) said to an employee that (b) (6), (b) (7)(C) saw the video that an employee made for the Union and that (b) (6), (b) (7)(C) knew there were changes that need to be made and to give Amazon a chance to fix them. The Petitioner further asserts that in January 2021, human resource managers, operations managers, and lead managers began visiting employees in their departments and asking employees if they liked working for Amazon and what employees in their department would like to see changed.

As outlined in the Order, in Objection 10 the Petitioner alleges that, starting in January 2021, during group meetings, captive audience meetings, and with individuals, the Employer’s agents threatened employees with the loss of benefits and/or pay if the Union were voted in. The Petitioner alleges the Employer’s agents threatened employees that they don’t want to risk losing their health insurance benefits, paid leave and/or other benefits by voting in the Union; they should vote no to “protect” what they have; and the Union could not obtain anything in addition to what the Employer already provided them. The Petitioner alleges that during group meetings and individually, beginning in January 2021, employee relations managers and consultants for the Employer told employees that if the Union comes in they will not get any raises, and Amazon was going to take their insurance and strip them of their benefits. The Petitioner alleges that during captive audience meetings, agents of the employer, including managers and consultants stated that the Union could take away employees’ pay; if the Union came in workers would lose

their benefits; if the Union comes in everything is thrown out and they will start from scratch; pay will decrease and they will lose benefits they have; and there would not be any change if the Union came in, which suggested the futility of bargaining.

As outlined in the Order, in Objection 11 the Petitioner alleges the Employer's agents engaged in an extensive campaign of polling employees and/or interrogating them with respect to their support for the Union, thus interfering with their rights to an election free of coercion and interference. The Petitioner alleges that some incidents involved distributing anti-union paraphernalia to employees as a means of polling employees. The Petitioner also alleges that some incidents involved asking employees if they had voted, how they will vote, or which way they were leaning. The Petitioner alleges that agents of the Employer engaged in an extensive campaign to poll and interrogate employees about their support for the Union. This conduct included asking employees if they supported the Union; asking employees how they felt about the Union; and distributing "vote no" pins and tee-shirts to employees who had not requested such items. For example, the Petitioner asserts that an employee in or about the first part of February 2021 received a call from a person who identified [REDACTED] as [REDACTED] (last name unknown) and as an Amazon human resources person and asked the employee if they had received a ballot. [REDACTED] allegedly asked the employee how they were going to vote and said that [REDACTED] was calling people to see how they planned to vote. The Petitioner also asserts that on or about February 26, 2021, employee relations personnel walked around the facility asking them if they voted; which way they were leaning; and what were the odds that the Union would win the election. The Petitioner further asserts that during the first week of March 2021, a manager or consultant for Amazon asked an employee if they had voted and to make sure they voted. The agent of the Employer handed the employee a "vote no" button. The Petitioner asserts that different managers or consultants, as agents of the Employer, asked the employee multiple times in March if they had voted. The Petitioner asserts that on or about March 11, 2021, a [REDACTED] manager or consultant asked an employee if they had voted and when the employee replied that they had, the person checked off something in [REDACTED] stack of papers and gave the employee an "I voted" button. The Petitioner asserts that the Employer's managers and agents distributed "vote no" pins depending on how employees responded to their questions; that responses were noted on a notepad; that "vote no" materials were offered at captive audience meetings; that employees were asked at their work stations about their feelings for the Union; that employees were asked if they had voted and how they voted; that employees were told to use the mailbox in front of the building for voting; that agents of the Employer showed employees how to fill out an actual ballot with actual ballot materials, while handing out "vote no" pins; that starting around mid-February, employee relations staff stopped employees while they were working, asked if they had received their ballot, if they had voted, did they know how to fill it out, how they felt about the union, and if they knew how they were going to vote; that employees were asked repeatedly by managers how they felt about the Union and what could Amazon do better improve working conditions as managers gave out tee-shirts and pins that said "vote no"; that during captive audience meetings, the Employer distributed "vote no" pins and door hangers, questioned whether employees had voted, and required employees to sign a piece of paper saying they had voted; and distributed "vote no" tee-shirts to night shift employees as they came on to their shift.

As outlined in the Order, in Objection 12 the Petitioner alleges that the Employer removed from captive audience meetings employees who asked questions about the information

presented. The Petitioner asserts that during a captive audience meeting held in January 2021, an employee questioned the consultants/presenters about the information being provided to the employees. The Employer's agents called the employee to the front of the meeting, noted their badge information, and escorted them from the meeting in the presence of other employees. The Petitioner alleges this interfered with and/or chilled the right of employees to freely discuss issues related to the union organizing campaign and/or the terms and conditions of employment.

As outlined in the Order, in Objection 13 the Petitioner alleges the Employer's agents disparately enforced the Employer's social distancing policy and interfered with employees supporting the Union discussing the union organizing campaign. The Petitioner alleges the Employer permitted its agents and employees classified as process assistants to walk the facility and visit individual employee stations during working time to discuss voting against the Union. The Petitioner alleges, however, the Employer discouraged or cautioned employees supporting the Union from talking about the Union during working time. The Petitioner also alleges the Employer moved employees believed to support the Union into positions that limited their contact with coworkers during working hours. Specifically, the Petitioner alleges that during the critical period openly known and active union supporters who had worked primarily on the 1st and 2nd floors of the facility (where more employees work and where there is a large breakroom where employees congregate) were moved to the 3rd and/or 4th floor for work where there are fewer employees and less opportunity for Union supporters to speak to employees about the Union. The Petitioner alleges this conduct interfered with employees' right to an election free of coercion and interference.

As outlined in the Order, in Objection 18 the Petitioner alleges that in January and February 2021, the Employer's agents told employees in mandatory meetings and afterwards that the Union will go on strike and that employees will lose money. The Petitioner alleges the Employer's prediction of a strike was a coercive threat of loss of pay intended to influence the outcome of the election.

As outlined in the Order, in Objection 19 the Union alleges that, by text message, group meetings, and one-on-one conversations, the Employer's agents threatened employees that they would lose access to their supervisors and their supervisors would not be able to help them individually if the Union were voted in.

As outlined in the Order, in Objection 20 the Petitioner alleges that in (b) (6), (b) (7)(C) 2021, the Employer interrogated an employee about their union activity and terminated a Union supporter for passing out union authorization cards in non-working areas. The employee's discharge for passing out union cards was disseminated in the warehouse and had a chilling effect on support for the Union. The Petitioner further asserts that in (b) (6), (b) (7)(C) 2021 Human Resource (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) approached an employee distributing union cards in the breakroom and smoke area and asked what the employee was handing out. (b) (6), (b) (7)(C) asked the employee for a union card. Approximately two days later, this employee met with Human Resources met with the employee and told the employee it was against company policy to pass out union cards. The Employer sent this employee home for the day. When the employee returned to work the next day, the Employer informed the employee they had been terminated.

ORDER DIRECTING HEARING

As noted in the April 26, 2021, Order Directing Hearing and Notice of Hearing on Objections issued on both parties along with a copy of the objections, regarding **Objections 1 through 19, 22 and 23, and part of Objection 20**, I have concluded that the evidence submitted by the Union in support of its objections could be grounds for overturning the election if introduced at a hearing. Accordingly, in accordance with Section 102.69(c)(1)(ii) of the Board's Rules and Regulations, IT IS ORDERED that a hearing shall be held before a Hearing Officer designated by me, for the purpose of receiving evidence to resolve the issues raised by the objections. At the hearing, the parties will have the right to appear in person to give testimony, and to examine and cross-examine witnesses. Upon the conclusion of the hearing, the Hearing Officer shall submit to me and serve on the parties a report containing resolutions of the credibility of witnesses, findings of fact and recommendations as to the disposition of Objections 1 through 19, 22 and 23, and part of Objection 20.

I have concluded that **Objection 20 in part and Objection 21**, which allege discharge and discipline of certain employees, will be held in abeyance because these objections are related to the pending unfair labor practice charge in Case 10-CA-276082, which raises related Section 8(a)(3) allegations. Moreover, if the Hearing Officer finds any of the other objections are grounds for overturning the election, then it will be unnecessary to determine if that portion of Objection 20 and/or Objection 21 are grounds for overturning the election. Thus, Objection 20, in part, and Objection 21 shall be held in abeyance pending the outcome of the hearing on the remaining objections.

NOTICE OF HEARING

Starting at **10:00 AM Central Time on Friday, May 7, 2021, via videoconference**, the hearing on objections as summarized above will be conducted before a Hearing Officer of the National Labor Relations Board. The hearing will continue on consecutive business days thereafter until completed unless I determine that extraordinary circumstances warrant otherwise.

Dated: April 30, 2021



Lisa Y. Henderson
Acting Regional Director
National Labor Relations Board
Region 10
Peachtree Summit Federal Building
401 W. Peachtree Street, NE
Suite 2201
Atlanta, GA 30308